

FILED

March 10, 2011

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF MEDICAL EXAMINERS

In the Matter of:

MICHAEL LAFON, M.D.

ORDER REINSTATING
LICENSE WITH CONDITIONS

This matter was reopened before the New Jersey State Board of Medical Examiners (the "Board"), upon the Board's receipt of a petition from respondent Michael Lafon, M.D., seeking reinstatement of his license to practice medicine and surgery in the State of New Jersey. We have reviewed and carefully considered available information, to include the extensive history of this matter; testimony that was offered by Dr. Lafon when he appeared before Committees of the Board, represented by David Evans, Esq., first on September 2, 2009 and then a second time on September 1, 2010; confidential reports submitted to the Board by mental health care practitioners who have treated Dr. Lafon, by Dr. Phillip Witt, who conducted a psychosexual evaluation of Dr. Lafon, and by the Professional Assistance Program of New Jersey (hereinafter the "PAP"); and a comprehensive skills assessment report prepared by the Physician Assessment and Clinical Education Program of the University of California, San Diego ("UCSD-PACE") program. Based thereon, we presently conclude that cause exists to grant Dr.

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Lafon's petition for reinstatement of his license to practice medicine in New Jersey, subject to express conditions and limitations: (1) that Dr. Lafon continue to fully participate with the PAP, remain in therapy with his treating psychiatrist Dr. Laurie Deerfield, and continue to regularly attend meetings of the support group Sex and Love Anonymous ("SLA"); (2) that Dr. Lafon not engage in any independent medical practice (that is, that he practice as an employee only), practice only in a Board-approved setting(s), and practice with monitoring of his records to be provided by a Board-approved "practice monitor;" and (3) that Dr. Lafon be barred from providing care to any female patients, and that he treat male patients only if accompanied by a Board-approved chaperone (see below for additional detail regarding each of the conditions herein imposed).

The history of this matter is detailed in prior public filings with the Board. Dr. Lafon was arrested in July 2003 and charged with three counts of criminal sexual contact (fourth degree, N.J.S. 2C:14-2C, N.J.S. 2C:14-3B) and lewdness (disorderly persons offense N.J.S. 2C:14-4A.). The charges focused on sexual activities and/or contacts that Dr. Lafon had during the course of medical examinations of three patients. After Dr. Lafon's arrest, claims of additional misconduct (to include making improper sexual comments, inappropriate hugging and kissing of patients, and Dr. Lafon's having had sexual intercourse with patients and spouses of patients) were made by many additional individuals, however no

further criminal charges were filed.

Dr. Lafon entered into a plea bargain with the Gloucester County Prosecutor to resolve the criminal action, and entered a guilty plea on December 18, 2003. He was sentenced on February 6, 2004 to four years probation. An explicit condition of the criminal plea bargain was that Dr. Lafon was to surrender his medical license.¹ Dr. Lafon was also ordered to undergo a

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Prior to deciding whether to entertain respondent's petition for reinstatement, we sought to determine whether the condition within respondent's criminal sentence that he surrender his medical license was intended to be permanent or whether the condition was entered without prejudice to respondent seeking application to the Board. Respondent was able to demonstrate, by citing to transcripts of respondent's entry of his guilty plea, that explicit statements were made by the prosecuting attorney that the requirement that he surrender his license to practice medicine was without prejudice and that the agreement was not intended to preclude him from ever applying for reinstatement. Rather, the record reflects that the prosecutor expressly acknowledged on the record that the decision whether to reinstate Dr. Lafon's license was to be left entirely to the Board's discretion.

In a letter dated February 26, 2009, Gloucester County Prosecutor Sean F. Dalton advised the Board that "the State's interest in entering into a plea agreement in lieu of proceeding to trial with more severe penalties was to ensure that Dr. Lafon was never placed in a situation, at least in New Jersey, where he would be able to engage in this type of behavior again, and that the condition that he surrender his license along with the other conditions of his plea satisfied the State's interest in this case."

In attempting to reconcile the two statements, we have concluded that it would be unfair to presently bar Dr. Lafon from petitioning for reinstatement of his license, given the express representations made by the prosecutor when Dr. Lafon entered his guilty plea. Nonetheless, we have also sought to be mindful of Prosecutor Dalton's more recent statement that the surrender was intended to ensure that Dr. Lafon never be placed in a situation where he would be able to engage in similar behavior. The conditions and limitations which we impose herein on respondent's practice - to include the condition that he not treat any female patients upon resuming practice and the condition that he treat male patients only in the presence of a Board approved chaperone - are intended to effect Prosecutor Dalton's stated interests.

psychological evaluation and counseling, prohibited from having any contact with the three victims who were the subject of the criminal action, and assessed fines and penalties. Dr. Lafon completed all of the conditions of his probation in a satisfactory manner and received an early discharge from probation on July 17, 2007.

Dr. Lafon's medical license was temporarily suspended at the time the criminal action commenced. Thereafter, on December 3, 2003, an eight count administrative complaint was filed with the Board. Three of the counts alleged sexual misconduct with the same three patients identified in the criminal complaints, and the remaining five counts charged Dr. Lafon with having engaged in multiple acts of sexual misconduct with additional patients and one employee.²

On December 29, 2003, Dr. Lafon agreed to the entry of a "Consent Order of Revocation" with the Board. Within the Order, Dr. Lafon acknowledged that, with regard to the three individuals who were the subject of the criminal indictment, his actions constituted multiple violations of the sexual misconduct regulation, numerous provisions of the Uniform Enforcement Act and

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The additional counts included allegations that Dr. Lafon repeatedly made inappropriate touchings (of a sexual nature) of his patients; repeatedly made inappropriate sexual comments to patients; had sexual intercourse with one patient; showed pictures of individuals performing sex acts to patients; asked one patient if she wanted to have sex with another patient and/or act in a pornographic movie; asked several patients to show him their breasts without any medical purpose; and repeatedly made comments of a sexual nature, to include references to oral sex.

demonstrated a lack of good moral character. Dr. Lafon was "granted leave to voluntarily surrender" his medical license, with the surrender to be "deemed a revocation," and was ordered to pay investigative costs in the amount of \$18,406.41.

Dr. Lafon submitted a written petition for reinstatement of his medical license on or about December 2, 2008. After we determined that Dr. Lafon's petition would not be barred by the terms of the plea bargain he entered with the Gloucester County Prosecutor (see footnote 1, supra), Dr. Lafon appeared before a Committee of the Board on September 2, 2009, represented by David Evans, Esq., and accompanied by Louis E. Baxter, M.D., on behalf of the Professional Assistance Program of New Jersey (the "PAP"). Dr. Lafon testified at length concerning the efforts he had made at rehabilitation following his criminal conviction and the surrender of his medical license. Respondent readily conceded that his prior conduct was inappropriate and indefensible. Dr. Lafon testified that his life had changed drastically in the six years since he lost his license. Dr. Lafon married in October 2005 and is now raising a son.

Dr. Lafon testified that he was attending meetings of Sex and Love Anonymous ("SLA") three times a week, attending a professional group meeting hosted by Dr. Laurie Deerfield once a week and receiving individual counseling from Dr. Deerfield. He stated that through therapy and attendance at SLA meetings, he had gained substantial insight into his behaviors and how they came

about. Dr. Lafon now recognizes that his impulses or urges cannot be acted upon, and stated that he is committed to his recovery.

Dr. Baxter testified that Dr. Lafon enrolled with the PAP on January 25, 2007, and had remained an active and fully compliant participant with the program since enrolling. Dr. Lafon has faithfully attended meetings of the support group SLA, continued in group and individual therapy with Dr. Laurie Deerfield and continued to attend quarterly meetings with PAP staff. Dr. Baxter offered his opinion that Dr. Lafon had come to understand the depth of his sex addiction through his therapy with Dr. Deerfield. Dr. Baxter stated that Dr. Lafon has exhibited extreme remorse for what occurred and recognized the harm and pain he caused individuals with whom he interacted, and that he now fully understands the seriousness of his illness. Dr. Baxter testified that the PAP supported Dr. Lafon's petition for reinstatement, provided that the reinstatement was on conditions to include, among other items, a condition that Dr. Lafon continue to fully participate with the PAP, a condition that he continue in therapy with Dr. Deerfield and a condition that he continue to attend SLA group meetings.

In addition to the above testimony, the Board considered confidential reports submitted by Phillip H. Witt, Ph. D., Laurie Deerfield, M.D. and Amber T. Samaroo, Ph.D., LSSW. Dr. Witt, a forensic psychologist specializing in criminal risk assessments and sex offender assessments, detailed the results of his psychosexual

evaluation of Dr. Lafon, and opined that Dr. Lafon could successfully practice medicine again and that he was not considered to be high risk to repeat his improper sexual behavior. Dr. Witt did recommend, however, that any resumed practice be supervised and chaperoned.

Dr. Sameroo, the Executive Director for the Sexual Offender Treatment Program for South Jersey Counseling Associates, detailed Dr. Lafon's participation in the Agency's Outpatient Counseling Program between February 19, 2004 and February 7, 2007. Dr. Sameroo commented that Dr. Lafon had "a good understanding of the harm, pain and shame that he brought upon his victims," and that "he uses this understanding [presently] to remove himself from any situation which may be compromising." Dr. Sameroo further opined, "with a reasonable degree of clinical certainty, that [Dr. Lafon] does not present a threat to commit further crimes."

Dr. Deerfield, who Dr. Lafon initially saw upon recommendation made by the PAP, submitted three written reports over the span of time that the Board considered Dr. Lafon's application for reinstatement. In each report, Dr. Deerfield expressed her support for Dr. Lafon's petition for reinstatement. Dr. Deerfield commented that Dr. Lafon is a "much changed human being." In her most recent report, Dr. Deerfield expressed her unconditional support for Dr. Lafon's petition for reinstatement, with a recommendation that he presently remain in therapy and that he comply with the recommendations made by the UCSD-PACE assessment

(see below).

Following Dr. Lafon's September 2009 appearance, the Board determined that it was prepared to grant Dr. Lafon's petition for reinstatement, subject to the conditions set forth below. The Board further determined, however, that any final action on Dr. Lafon's petition should be deferred until Dr. Lafon first secured an assessment of his competency to return to the practice of medicine from an approved assessment entity, as he had not practiced medicine since July 9, 2003.

Dr. Lafon then submitted to a comprehensive seven-day assessment conducted by UCSD-PACE, the results of which were set forth in a written summary report dated May 26, 2010. Dr. Lafon's performance was assessed as being overall "satisfactory," and the report detailed that, "based upon his overall performance, Dr. Lafon has passed the UCSD PACE Program's Phase I and Phase II assessments." "Major recommendations"³ were made, however, to

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The PACE program defines four possible outcomes of the physician assessment - "clear pass," "pass with minor recommendations," "pass with major recommendations," and "fail." Dr. Lafon received a final assessment of "pass with major recommendations." In its report, PACE describes the "pass with major recommendations" assessment as follows:

Significant deficiencies were noted. The physician is capable of practicing safely, but may not currently be reaching his/her full potential. Physicians in this category are likely to have broad deficiencies that cover multiple domains and will require a considerable educational investment and occasionally a change in behavior. Recommendations for how to remediate deficiencies will be outlined.

address and remediate deficiencies identified during the assessment, to include a recommendation that any resumed practice by Dr. Lafon should be monitored by a physician "practice monitor," who should review a random sample of Dr. Lafon's patient charts every month for a period of not less than one year. PACE also recommended that Dr. Lafon continue an intensive course of study to update his medical knowledge.

Following the issuance of the UCSD-PACE report, respondent appeared a second time before a Committee of the Board on September 1, 2010. At that appearance, respondent supplied the Board with details of a program of supplemental education which he developed to address and remediate concerns identified during the UCSD-PACE assessment.⁴ That program included attending weekly grand rounds, reading Conn's Current Therapy and working extensively with Washington Clinical Manual, working online with Medscape, reviewing UCSD's Practical Guide to Clinical Medicine in detail, and attending three extended medical review courses recognized by the American Academy of Family Physicians.⁵

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Although the primary focus of testimony offered at respondent's second appearance was upon issues raised in the UCSD-PACE program, Dr. Lafon was accompanied at that appearance by David Canavan, M.D. from the PAP. The PAP then submitted a new position statement wherein Dr. Canavan reported that Dr. Lafon continued to faithfully and fully participate with the PAP. Dr. Canavan testified that the PAP continued to support Dr. Lafon's petition, subject to the addition of the conditions that had been recommended within the UCSD-PACE report.

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The three courses which Dr. Lafon in fact attended were:

The proposed program was presented to UCSD for review. In a letter dated, August 27, 2010, William A. Norcross, M.D., Program Director for PACE, opined that the proposed education program "has brought or will shortly bring Dr. Lafon's medical knowledge to a competence level that meets the standard of care for primary care (general medicine) in the United States."⁶ Dr. Lafon has since satisfactorily completed each of the three courses. We therefore are satisfied that Dr. Lafon has now demonstrated sufficient proficiency to reenter the practice of medicine presently, subject to the condition recommended by UCSD that his records be reviewed for a period of not less than one year by a Board approved practice monitor.

1. The Temple University School of Medicine Cutting Edge Medical Seminar, from August 21 through August 25, 2010 (20 AMA Category 1 continuing medical education credits).

2. The Temple University School of Medicine Family Practice Review Course from September 26 through October 1, 2010 (43 AMA Category 1 continuing medical education credits).

3. The American Academy of Family Physicians' Emergency and Urgent Care Seminar, from November 2 through November 5, 2010 (30.75 credits of Category 1 continuing medical education credits).

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Dr. Norcross further stated:

It is our unanimous feeling that this list of educational activities ... meets or more likely exceeds our expectations. The educational offerings are all of the highest quality, are conducted by very reputable institutions and organizations, and clearly cover the breadth of state-of-the-art primary care. We have performed over 1200 comprehensive clinical competence assessments and remediations, and this is the most comprehensive educational program we have ever seen.

Our decision to reinstate respondent should in no way be considered to discount the gravity of the misconduct in which respondent engaged. It is clear that respondent misused his license to facilitate his own sexual desires and aims, and in doing so fundamentally shattered the trust that had been placed in him by countless patients, their families and his employees. Yet, we are also mindful that respondent has not only completed all conditions of his criminal sentence, but even more significantly, has gone to great lengths to secure treatment and to make changes to his life. He has been able to demonstrate, through his own testimony and through the strong support that he has received from the PAP and his treatment providers, that he has made a sincere effort to change.

On balance, then, we conclude that respondent should be provided one final chance to resume the practice of medicine. At this juncture, however, we conclude that it is prudent and appropriate to limit any resumed practice to male patients alone, and to require that all practice be chaperoned.

The Board finding that good cause presently exists for the entry of an Order authorizing respondent to resume the practice of medicine at this time, subject to all conditions and requirements set forth below, and respondent herein expressly agreeing to comply with all terms and conditions of the within Order,

IT IS on this 10th day of March, 2011

ORDERED:

1. The license of respondent Michael Lafon, M.D., to practice medicine and surgery in the State of New Jersey is hereby conditionally reinstated. Dr. Lafon shall comply with all terms and conditions set forth below.

2. Dr. Lafon shall continue his enrollment in, and full participation with, the PAP. The PAP shall provide quarterly written reports to the Board confirming that Dr. Lafon remains enrolled in and fully compliant with all recommendations made by the PAP, and generally detailing the extent of Dr. Lafon's involvement with the PAP. The PAP shall provide immediate written notification to the Board in the event that Dr. Lafon discontinues his participation with the PAP and/or in the event that he fails to comply with any recommendation(s) made by the PAP, or should the PAP obtain any other reliable information suggesting that Dr. Lafon has engaged in inappropriate conduct of any manner with any patient.

3. Dr. Lafon shall continue in therapy with Dr. Laurie Deerfield, with sessions to be conducted at a frequency deemed appropriate by Dr. Deerfield and the PAP. Dr. Lafon shall continue in therapy with Dr. Deerfield until such time as Dr. Deerfield, in consultation with the PAP, determines that therapy is no longer indicated, provided that the PAP first advises the Board in writing of any recommendation to discontinue therapy and secures written approval from the Board for discontinuation of therapy.

4. Dr. Lafon shall continue to attend meetings of SLA at a frequency of not less than three meetings per week. Attendance at SLA meetings shall be documented.

5. Dr. Lafon shall only practice as an employee, in a practice setting approved by the Board. The Board presently approves Dr. Lafon's practice as an employee of John G. Wilson, M.D. Dr. Wilson has provided express written agreement that he will provide written quarterly reports to the Board and to the PAP regarding Dr. Lafon's work performance, and an immediate written report to the Board and the PAP in the event he has any concerns about Dr. Lafon's behavior or practice of medicine. Dr. Lafon shall not engage in the practice of medicine in any setting other than that approved herein, unless he first details any proposed additional practice settings to the Board and secures written approval in advance from the Board.

6. Dr. Lafon shall be subject to practice monitoring to be conducted by a "practice monitor" acceptable to the Board. The "practice monitor" shall be a physician, other than Dr. Lafon's employer (and other than any physician who may have any business, personal, familial or other relationship with Dr. Lafon that could be considered to compromise the ability of the "practice monitor" to provide fair and unbiased review and reports to the Board), who is licensed and in good standing in New Jersey, and shall hold Board certification by the American Board of Medical Specialities in Family Medicine or equivalent board certification. The Board

presently approves Scott A. Salkind, D.O., to serve as Dr. Lafon's "practice monitor." Dr. Salkind has expressly agreed to review a random sample of not less than ten of Dr. Lafon's patient charts on a monthly basis for a period of not less than one year. Dr. Salkind shall provide quarterly written reports to the Board outlining the quality of respondent's patient charts and the quality of medical care being provided by respondent. Dr. Salkind shall also provide an immediate written report to the Board in the event that he determines, based on review of Dr. Lafon's charts, that Dr. Lafon is maintaining records or providing care that is below reasonable standards, and/or in the event that he obtains any reliable information suggesting that Dr. Lafon has engaged in inappropriate conduct of any manner with any patient. Dr. Lafon shall be solely responsible for any costs associated with the monitoring of his practice. In the event Dr. Lafon seeks to change the identity of the "practice monitor," he shall not engage in the practice of medicine with any "practice monitor" other than Dr. Salkind unless he first seeks and secures written approval in advance from the Board for any proposed substitute "practice monitor."

7. Dr. Lafon shall not examine, treat, or provide any medical care to any female patient. Dr. Lafon is hereby authorized to treat male patients, but shall be required to be accompanied by a Board-approved chaperone during all patient visits. Prior to resuming practice, Dr. Lafon shall obtain written approval from the

Board for any proposed chaperone. The chaperone shall initial all patient charts to signify his or her presence during the physician-patient visit. The approved chaperone(s) shall be required to provide written quarterly reports to the Board, and shall provide an immediate written report to the Board in the event that any information is received that Dr. Lafon has seen or examined any patient without the chaperone being present, or in the event that Dr. Lafon is witnessed engaging in inappropriate conduct of any manner with any patient. Dr. Lafon shall be solely responsible for all costs incurred in the chaperoning of his medical practice.

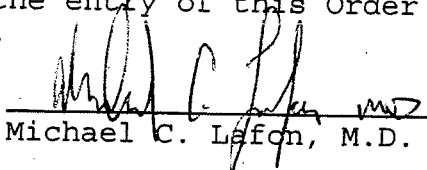
8. The Board expressly reserves the right to summarily enter an Order suspending the license of respondent Michael Lafon, upon proof of violation of any of the terms or conditions of this Order, and/or upon receipt of any immediate report from the PAP, respondent's employer, respondent's practice monitor and/or respondent's approved chaperone reporting a violation of any of the terms or conditions of this Order.

NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS

By: 

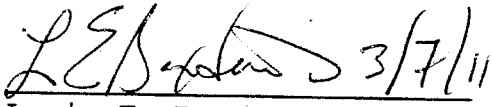
Paul T. Jordan, M.D.
Board President

I acknowledge that I have reviewed this Order, and agree to abide with all terms and conditions set forth herein. I am aware that the Board may summarily rescind the authorization herein granted to me to resume the practice of medicine should I fail to comply with all terms and conditions set forth above, and/or in the event that the Board receives any "immediate" report from the PAP, my employer, my "practice monitor" and/or my chaperone, as detailed above. I agree to the entry of this Order by the Board.


Michael C. Lafon, M.D.

3/7/11

Consent on behalf of the PAP to monitor Dr. Lafon and to provide reports to the Board concerning Dr. Lafon as detailed above.


Louis E. Baxter, M.D.
Executive Medical Director
Professional Assistance
Program of New Jersey